



April 4, 2003

ENGROSSED HOUSE BILL No. 1434

DIGEST OF HB 1434 (Updated April 1, 2003 12:55 PM - DI 71)

Citations Affected: IC 9-13; IC 9-19.

Synopsis: Child restraints in motor vehicles. Requires a person who operates a motor vehicle with a child who is less than 12 years of age to restrain the child by a child restraint system, a booster seat, or a safety belt. Removes the exception that a person who operates a vehicle registered outside Indiana is not required to use a child restraint system unless the vehicle is operated in Indiana for more than 60 days in a year. Requires children of certain ages to be restrained in a certain manner in vehicles operated in Indiana that are not registered in Indiana. Makes violations of child restraint system laws Class C infractions. Establishes the child restraint system fund to make grants to private and public organizations to purchase and distribute child restraint systems without charge or for a minimal charge to persons who would not otherwise be able to afford to purchase child restraint systems. Removes conflicting language in the passenger restraint system law that was declared invalid by the Indiana supreme court. Repeals a provision concerning child restraint systems and safety belt use by children at least four but less than 12 years of age. Provides that an infraction for a violation of child booster seat requirements is not an offense for which points may be assessed against the driver and may not be used in a determination of habitual violator status.

Effective: July 1, 2003.

Welch, Day, Becker, Hasler

(SENATE SPONSORS — WYSS, SIPES)

January 14, 2003, read first time and referred to Committee on Judiciary.
January 30, 2003, amended, reported — Do Pass. Recommitted to Committee on Ways and Means.
February 17, 2003, referral to Committee on Ways and Means withdrawn.
February 20, 2003, read second time, amended, ordered engrossed.
February 21, 2003, engrossed.
February 25, 2003, call withdrawn.
February 27, 2003, placed back on second reading.
March 3, 2003, reread second time, amended, ordered engrossed.
March 4, 2003, re-engrossed. Reread third time, passed. Yeas 68, nays 30.

SENATE ACTION

March 13, 2003, read first time and referred to Committee on Transportation and Homeland Security.
April 3, 2003, amended, reported favorably — Do Pass.

EH 1434—LS 7164/DI 69+



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April 4, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1434

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-13-2-22.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]: **Sec. 22.5. "Child booster seat" means a:**
4 **(1) backless child restraint system; or**
5 **(2) belt positioning seat;**
6 **that meets the standards prescribed in 49 CFR 571.213.**
7 SECTION 2. IC 9-13-2-23 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. "Child ~~passenger~~
9 restraint system" means a device that:
10 (1) is manufactured for the purpose of protecting children from
11 injury during a motor vehicle accident; and
12 (2) meets the standards prescribed **and definition contained in**
13 **49 CFR 571.213.**
14 SECTION 3. IC 9-19-10-1 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter does not
16 apply to a front seat occupant who meets any of the following
17 conditions:

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- (1) For medical reasons should not wear safety belts.
- (2) Is a child required to be restrained by a child ~~passenger~~ restraint system **or a child booster seat** under IC 9-19-11.
- (3) Is traveling in a commercial or a United States Postal Service vehicle that makes frequent stops for the purpose of pickup or delivery of goods or services.
- (4) Is a rural carrier of the United States Postal Service and is operating a vehicle while serving a rural postal route.
- (5) Is a newspaper motor route carrier or newspaper bundle hauler who stops to make deliveries from a vehicle.
- (6) Is a driver examiner designated and appointed under IC 9-14-2-3 and is conducting an examination of an applicant for a permit or license under IC 9-24-10.

SECTION 4. IC 9-19-10-3, AS AMENDED BY P.L.57-1998, SECTION 2, AND P.L.116-1998, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. *(a) Except as provided in subsection (b), a person may not be stopped, inspected, or detained solely to determine compliance with this chapter.*

(b) Subsection (a) does not apply to a stop, an inspection, or a detention of a person to determine compliance with section 2.5 of this chapter.

A vehicle may be stopped to determine compliance with this chapter. However, a vehicle, the contents of a vehicle, the driver of a vehicle, or a passenger in a vehicle may not be inspected, searched, or detained solely because of a violation of this chapter.

SECTION 5. IC 9-19-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter does not apply to a person who operates any of the following vehicles:

- (1) A school bus.
- (2) A taxicab.
- ~~(3) A rental vehicle leased for not more than thirty (30) days.~~
- ~~(4) (3) An ambulance.~~
- ~~(5) A vehicle registered in a jurisdiction other than Indiana unless the vehicle is operated in Indiana for more than sixty (60) days in any calendar year.~~
- ~~(6) (4) A public passenger bus.~~
- ~~(7) (5) A motor vehicle having a seating capacity greater than nine (9) individuals that is owned or leased and operated by a religious or not-for-profit youth organization.~~
- ~~(8) (6) An antique motor vehicle.~~
- ~~(9) (7) A motorcycle.~~
- ~~(10) (8) A motor vehicle that is owned or leased by a~~



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governmental unit and is being used in the performance of official law enforcement duties.

~~(H)~~ (9) A motor vehicle that is being used in an emergency.

SECTION 6. IC 9-19-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A person who:

(1) holds an Indiana driver's license; and

(2) operates a motor vehicle in which there is a child less than four (4) years of age who is not properly fastened and restrained according to the manufacturer's instructions by a child passenger restraint system;

commits a ~~Class D~~ Class C infraction, unless it is reasonably determined that the child will not fit in a child passenger restraint weighs more than eighty (80) pounds or is more than four (4) feet, nine (9) inches tall. system.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system fund established by section 9 of this chapter.

SECTION 7. IC 9-19-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A person who holds an Indiana driver's license and operates a motor vehicle in which there is a child commits a ~~Class D~~ Class C infraction if:

(1) the child is less than four (4) years of age and it is reasonably determined that the child will not fit in a child restraint system; weighs more than eighty (80) pounds or is more than four (4) feet, nine (9) inches tall; and

(2) the child is not properly fastened and restrained according to the manufacturer's instructions by a:

(A) child booster seat; or

(B) safety belt.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system fund established by section 9 of this chapter.

SECTION 8. IC 9-19-11-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.1. (a) A person who holds an Indiana driver's license and operates a motor vehicle in which there is a child commits a Class C infraction if:

(1) the child is at least four (4) years of age but less than eight (8) years of age; and

(2) the child is not properly fastened and restrained according to the manufacturer's instructions by a:

(A) child restraint system; or



(B) child booster seat;
unless the child weighs more than eighty (80) pounds or is more than four (4) feet, nine (9) inches tall.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system fund established by section 9 of this chapter.

SECTION 9. IC 9-19-11-3.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.2. (a) A person who holds an Indiana driver's license and operates a motor vehicle in which there is a child commits a Class C infraction if:

- (1) the child is at least four (4) years of age but less than eight (8) years of age;
- (2) the child weighs more than eighty (80) pounds or is more than four (4) feet, nine (9) inches tall; and
- (3) the child is not properly fastened and restrained according to the manufacturer's instructions by a safety belt.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system fund established by section 9 of this chapter.

SECTION 10. IC 9-19-11-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.3. (a) This section does not apply to a person who holds an Indiana driver's license.

(b) A person who operates a motor vehicle in which there is a child less than twelve (12) years of age who is not properly fastened and restrained according to the manufacturer's instructions by a:

- (1) child restraint system;
- (2) child booster seat; or
- (3) safety belt;

commits a Class C infraction.

(c) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system fund established by section 9 of this chapter.

SECTION 11. IC 9-19-11-3.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.7. (a) A person who operates a motor vehicle in which there is a child and that is equipped with a safety belt meeting the standards stated in the Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) commits a Class C infraction if:

- (1) the child is at least eight (8) years of age but less than

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twelve (12) years of age; and
 (2) the child is not properly fastened and restrained according
 to the manufacturer's instructions by a:

- (A) child restraint system;
- (B) child booster seat; or
- (C) safety belt.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as
 judgments for violations under this section shall be deposited in the
 child restraint system fund established by section 9 of this chapter.

SECTION 12. IC 9-19-11-3.9 IS ADDED TO THE INDIANA
 CODE AS A NEW SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2003]: **Sec. 3.9. Notwithstanding sections 3,
 3.1, 3.2, 3.3, and 3.7 of this chapter, a person may operate a motor
 vehicle in which there is a child who weighs more than forty (40)
 pounds and who is properly restrained and fastened by a lap safety
 belt if:**

- (1) the motor vehicle is not equipped with lap and shoulder
 safety belts; or
- (2) not including the operator's seat:
 - (A) the motor vehicle is equipped with one (1) or more lap
 and shoulder safety belts; and
 - (B) all the lap and shoulder safety belts are being used to
 properly restrain other children who are less than twelve
 (12) years of age.

SECTION 13. IC 9-19-11-5 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5. If at a proceeding to
 enforce:**

- (1) section 2 of this chapter, the court finds that the person
~~(+)~~ has violated this chapter and
~~(2)~~ possesses or has acquired a child ~~passenger~~ restraint system;
 or
- (2) **section 3.1 of this chapter, the court finds that the person
 has violated this chapter and possesses or has acquired a child
 restraint system or a child booster seat;**

the court shall enter judgment against the person. However,
 notwithstanding IC 34-28-5-4, the person is not liable for any costs or
 monetary judgment if the person has no previous judgments of
 violation of this chapter against the person.

SECTION 14. IC 9-19-11-6 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. (a) If, at a
 proceeding to enforce section 2 of this chapter, the court finds that the
 person:**



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(1) has violated this chapter; and
 (2) does not possess or has not acquired a child ~~passenger~~ restraint system;
 the court shall enter judgment against the person and shall order the person to provide proof of possession or acquisition within thirty (30) days.

(b) If, at a proceeding to enforce section 3.1 of this chapter, the court finds that the person:

(1) has violated this chapter; and
 (2) does not possess or has not acquired a child restraint system or a child booster seat;
 the court shall enter judgment against the person and shall order the person to provide within thirty (30) days proof of possession or acquisition of a child restraint system or a child booster seat.

(c) Notwithstanding IC 34-28-5-4, if the person:

(1) complies with a court order under this section; and
 (2) has no previous judgments of violation of this chapter against the person;

the person is not liable for any costs or a monetary judgment.

SECTION 15. IC 9-19-11-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9. (a) The child restraint system fund is established to make grants under subsection (d).**

(b) The fund consists of the following:

(1) Funds collected as judgments for violations under this chapter.
 (2) Appropriations to the fund from the general assembly.
 (3) Grants, gifts, and donations intended for deposit in the fund.
 (4) Interest that accrues from money in the fund.

(c) The fund shall be administered by the criminal justice institute.

(d) The criminal justice institute, upon the recommendation of the governor's council on impaired and dangerous driving, shall use money in the fund to make grants to private and public organizations to:

(1) purchase child restraint systems; and
 (2) distribute the child restraint systems:
 (A) without charge; or
 (B) for a minimal charge;
 to persons who would not otherwise be able to afford to purchase child restraint systems.



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1 The criminal justice institute shall adopt rules under IC 4-22-2 to
2 implement this section.

3 (e) Money in the fund is appropriated continuously to the
4 criminal justice institute for the purposes stated in subsection (a).

5 (f) The expenses of administering the fund shall be paid from
6 money in the fund.

7 (g) The treasurer of state shall invest the money in the fund not
8 currently needed to meet the obligations of the fund in the same
9 manner as other public money may be invested. Interest that
10 accrues from these investments shall be deposited in the fund.

11 (h) Money in the fund at the end of a state fiscal year does not
12 revert to the state general fund.

13 SECTION 16. IC 9-19-11-10 IS ADDED TO THE INDIANA
14 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2003]: **Sec. 10. The bureau may not assess**
16 **points under the point system for a violation of this chapter.**

17 SECTION 17. IC 9-19-11-11 IS ADDED TO THE INDIANA
18 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2003]: **Sec. 11. A violation of this chapter**
20 **may not be included in a determination of habitual violator status**
21 **under IC 9-30-10-4.**

22 SECTION 18. IC 9-19-10-2.5 IS REPEALED [EFFECTIVE JULY
23 1, 2003].

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1434, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, strike line 31.

Page 2, line 32, strike "(4)" and insert "(3)".

Page 2, line 36, delete "(5)" and insert "(4)".

Page 2, line 37, delete "(6)" and insert "(5)".

Page 2, line 40, delete "(7)" and insert "(6)".

Page 2, line 41, delete "(8)" and insert "(7)".

Page 2, line 42, delete "(9)" and insert "(8)".

Page 3, line 3, delete "(10)" and insert "(9)".

Page 6, line 14, delete "state police" and insert "**criminal justice institute**".

Page 6, delete line 15.

Page 6, line 16, delete "state police superintendent" and insert "**criminal justice institute, upon the recommendation of the governor's council on impaired and dangerous driving**".

Page 6, line 24, delete "superintendent" and insert "**criminal justice institute**".

Page 6, line 26, delete "state" and insert "**criminal justice institute**".

Page 6, line 27, delete "police superintendent".

and when so amended that said bill do pass.

(Reference is to HB 1434 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 12, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1434 be amended to read as follows:

Page 2, line 14, delete "SEC." and insert "SECTION".

Page 2, line 15, delete "SEC." and insert "SECTION".

Page 3, line 11, strike "it is reasonably".

Page 3, line 12, strike "determined that".

Page 3, line 12, strike "will not fit in a child".

Page 3, line 12, strike "restraint" and insert **"weighs more than eighty (80) pounds or is more than four (4) feet, nine (9) inches tall."**

Page 3, strike line 13.

Page 3, line 21, strike "it is reasonably".

Page 3, line 22, strike "determined that".

Page 3, line 22, strike "will not fit in a child restraint system;" and insert **"weighs more than eighty (80) pounds or is more than four (4) feet, nine (9) inches tall;"**.

Page 3, line 42, delete "it is reasonably determined that".

Page 3, line 42, delete "will not fit in a" and insert **"weighs more than eighty (80) pounds or is more than four (4) feet, nine (9) inches tall."**

Page 4, delete line 1.

Page 4, line 12, delete "it is reasonably determined that".

Page 4, line 12, delete "will not fit in a" and insert **"weighs more than eighty (80) pounds or is more than four (4) feet, nine (9) inches tall."**

Page 4, delete line 13.

Page 6, line 30, delete "(e)" and insert **"(f)"**.

Page 6, line 32, delete "(f)" and insert **"(g)"**.

Page 6, line 36, delete "(g)" and insert **"(h)"**.

(Reference is to HB 1434 as printed January 31, 2003.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1434 be returned to the second reading calender forthwith for the purpose of amendment.

WELCH

HOUSE MOTION

Mr. Speaker: I move that House Bill 1434 be amended to read as follows:

Page 6, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 15. IC 9-19-11-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10. The bureau may not assess points under the point system for a violation of this chapter.**".

Re-number all SECTIONS consecutively.

(Reference is to HB 1434 as reprinted February 21, 2003.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Transportation and Homeland Security, to which was referred House Bill No. 1434, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, line 15, delete "tall." and insert "**tall; and**".

Page 4, line 26, delete "eight (8)" and insert "**twelve (12)**".

Page 4, line 38, delete "passenger".

Page 5, between lines 9 and 10, begin a new paragraph and insert:
 "SECTION 12. IC 9-19-11-3.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.9. Notwithstanding sections 3, 3.1, 3.2, 3.3, and 3.7 of this chapter, a person may operate a motor vehicle in which there is a child who weighs more than forty (40) pounds and who is properly restrained and fastened by a lap safety belt if:**

(1) the motor vehicle is not equipped with lap and shoulder safety belts; or

(2) not including the operator's seat:

(A) the motor vehicle is equipped with one (1) or more lap and shoulder safety belts; and

(B) all the lap and shoulder safety belts are being used to properly restrain other children who are less than twelve (12) years of age."

Page 7, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 17. IC 9-19-11-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11. A violation of this chapter may not be included in a determination of habitual violator status under IC 9-30-10-4."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1434 as reprinted March 4, 2003.)

WYSS, Chairperson

Committee Vote: Yeas 6, Nays 1.

EH 1434—LS 7164/DI 69+

